

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Nathan Winshall	Team: Squad #3	CCRB Case #: 201707372	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 09/07/2017 8:00 PM	Location of Incident: 81st Precinct stationhouse	Precinct: 81	18 Mo. SOL 3/7/2019	EO SOL 3/7/2019	
Date/Time CV Reported Fri, 09/08/2017 12:33 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 09/08/2017 12:33 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SSA Erek Powers	05297	944907	081 PCT
2. SGT Daniel Bosch	3916	932304	081 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Nicki Canady	02568	960316	081 PCT
2. DTS Mark Xylas	5149	948160	081 PCT
3. POM Job Bellevue	16310	945501	081 PCT
4. POM Joseph Sferrazza	19468	951237	081 PCT
5. PAA Monique Fields		365726	

Officer(s)	Allegation	Investigator Recommendation
A.SSA Erek Powers	Discourtesy: On September 7, 2017, Sergeant Erek Powers spoke discourteously to § 87(2)(b)	
B.SGT Daniel Bosch	Abuse: On September 11, 2017, Sergeant Daniel Bosch refused to provide his name and/or shield number to § 87(2)(b)	

## Case Summary

§ 87(2)(b) filed this complaint with the CCRB via telephone on September 8, 2017.

On September 7, 2017, at approximately 8:00 p.m., § 87(2)(b) entered the 81<sup>st</sup> Precinct stationhouse in Brooklyn, to request an update on a complaint he had filed. While there, he spoke to Sgt. Erik Powers, of the 81<sup>st</sup> Precinct, who allegedly called § 87(2)(b) a “clown,” and a “jackass,” before allegedly telling § 87(2)(b) “You need to get the fuck up out of here.” At some point while § 87(2)(b) was in the stationhouse, Sgt. Powers also spoke to PO Nicki Canady, of the 81<sup>st</sup> Precinct, and allegedly said to her, “What the fuck is he doing here?” referring to § 87(2)(b).

### **(Allegation A: Discourtesy, § 87(2)(g))**

On September 11, 2017, at approximately 2:00 p.m., § 87(2)(b) returned to the 81<sup>st</sup> Precinct stationhouse to request additional information about his complaint. There he spoke to Sergeant Daniel Bosch, of the 81<sup>st</sup> Precinct. § 87(2)(b) asked Sgt. Bosch, “Who are you?” and Sgt. Bosch allegedly responded, “You might not know who I am, but I know who you are.”

### **(Allegation B: Abuse of Authority, § 87(2)(g))**

Video footage that captured portions of the incident on September 7, 2017 can be found in IA 12, IA 13, IA 14, and IA 15 (Board Review 01, Board Review 02, Board Review 03, and Board Review 04).

## Findings and Recommendations

### **Allegation (A) Discourtesy: On September 7, 2017, Sergeant Erik Powers spoke discourteously to § 87(2)(b)**

It is undisputed that on the day in question, § 87(2)(b) entered the 81<sup>st</sup> Precinct stationhouse, seeking additional information on a complaint he had previously filed. After speaking to PAA Monique Fields, of the 81<sup>st</sup> Precinct, § 87(2)(b) interacted with Sgt. Powers who ultimately asked § 87(2)(b) to leave the stationhouse before escorting him out of the main room in the stationhouse.

§ 87(2)(b) stated that after speaking to PAA Fields, he noticed that Sgt. Powers began to stare at him. Sgt. Powers said to § 87(2)(b) “What’s up?” and asked him what he was doing in the stationhouse. § 87(2)(b) responded that he was seeking an update for a complaint he had previously filed. Sgt. Powers then began to insult § 87(2)(b) calling him a “clown,” a “sucker,” and a “jackass,” and referred to him as “soft.” § 87(2)(b) then told Sgt. Powers, “I’m a clown? Well, you’re a clown.” Sgt. Powers then replied, “You need to get the fuck up out of here.” At some point, Sgt. Powers turned to the T/S Operator, PO Canady, and stated, “What the fuck is he doing here?” referring to § 87(2)(b).

Sgt. Powers stated that § 87(2)(b) entered the stationhouse and began to swear at and threaten Sgt. Powers. Sgt. Powers did not recall how he responded to § 87(2)(b) and did not remember if he and § 87(2)(b) were “swearing back and forth” at one another. Sgt. Powers did not call § 87(2)(b) any of the names listed above, nor did he call § 87(2)(b) “soft.” He did not tell § 87(2)(b) “You need to get the fuck up out of here,” or say to PO Canady, “What the fuck is he doing here?” referring to § 87(2)(b). Sgt. Powers did not use any profanity with § 87(2)(b).

PO Canady stated that she did not hear Sgt. Powers refer to § 87(2)(b) as a “clown.” She did not recall if Sgt. Powers referred to § 87(2)(b) as a “sucker,” a “jackass,” or if Sgt. Powers called § 87(2)(b) “soft.” PO Canady did not hear Sgt. Powers say to her, “What the fuck is he doing here?” referring to § 87(2)(b). Sgt. Powers did not tell § 87(2)(b) to, “Get the fuck out of

the Precinct.” To PO Canady’s knowledge, Sgt. Powers did not use any profanity with § 87(2)(b)

Det. Mark Xylas, of the 81<sup>st</sup> Precinct, stated that he could not recall if any of the alleged statements were made. Additionally, he stated that he did not recall if Sgt. Powers used any profanity with § 87(2)(b)

PAA Fields stated that Sgt. Powers asked § 87(2)(b) to leave multiple times and § 87(2)(b) refused to do so, insisting that he get his complaint report. Sgt. Powers eventually told § 87(2)(b) “Can you just fucking leave?” He only made this statement once. Sgt. Powers did not call § 87(2)(b) a “clown.” PAA Fields did not remember Sgt. Powers calling § 87(2)(b) a “jackass.” PAA Fields was unsure if Sgt. Powers referred to § 87(2)(b) as being “soft.” At no point did Sgt. Powers say to PO Canady, “What the fuck is he doing here?” Later in her statement, PAA Fields stated she did not remember whether Sgt. Powers told § 87(2)(b) “Can you just fucking leave?” or “You need to get the fuck up out of here,” noting that the two statements had the same meaning and that Sgt. Powers could have said either.

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Although § 87(2)(b) provided video footage of portions of the incident, none of it captured any FADO allegations.

According to Patrol Guide Procedure 203-09, officers must be courteous and respectful when in contact with the public (Board Review 05).

§ 87(2)(b), § 87(2)(g)

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**Allegation (B) Abuse of Authority: On September 11, 2017, Sergeant Daniel Bosch refused to provide his name and/or shield number to § 87(2)(b)**

██████████ stated that on September 11, 2017, he entered the 81<sup>st</sup> Precinct stationhouse once again to request an update on his previously filed complaint. While there, he spoke to Sgt. Bosch and said to him, “Who are you?” Sgt. Bosch responded, “You might not know who I am, but I know who you are.”

Sgt. Bosch stated that he had no recollection of the incident or ever having interacted with § 87(2)(b). Sgt. Bosch did not make the statement, “You might not know who I am, but I know who you are.”

Out of the officers assigned to the 81<sup>st</sup> Precinct, Sgt. Bosch's name is the closest to Sgt. Borch, and he generally matches the description provided by § 87(2)(b) of the subject officer. The investigation determined, based on CTS searches, officer descriptions, and documentation, that Sgt. Bosch was the subject officer (Board Review 06).

§ 87(2)(b), § 87(2)(g)

[REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]

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## Civilian and Officer CCRB Histories

- § 87(2)(b) [REDACTED]  
[REDACTED]  
  - [REDACTED]  
[REDACTED]
  - [REDACTED]  
[REDACTED]
- Sgt. Powers has been a member of service for 10 years and has been the subject of 16 other cases and 34 other allegations, of which three were substantiated.
  - CCRB Case # 201407556 involved substantiated allegations of a premises entered and/or searched against Sgt. Powers. The board recommended charges, and at the APU trial, Sgt. Powers was found not guilty. Thus, he did not receive a penalty from the NYPD.
  - CCRB Case #201606619 involved allegations of a premises entered and/or searched and the authorizing of a summons being issued against Sgt. Powers. The board recommended Command Discipline A and the NYPD imposed Command Discipline A.
  - § 87(2)(g) [REDACTED]  
[REDACTED]
- Sgt. Bosch has been a member-of-service for 14 years and this is the first CCRB complaint to which he has been a subject.

### **Mediation, Civil and Criminal Histories**

- § 87(2)(b) [REDACTED] declined to mediate this complaint.
- § 87(2)(b), § 87(2)(c) (impair contract awards or CBAs) [REDACTED]  
[REDACTED]
- As of March 22, 2018, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (Board Review 09).

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Squad No.: 3

Investigator: \_\_\_\_\_

Signature	Print Title & Name	Date
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Squad Leader: \_\_\_\_\_

Signature	Print Title & Name	Date
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Reviewer: \_\_\_\_\_

Signature	Print Title & Name	Date
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